

REMARKS

Reconsideration of the present application is respectfully requested. No claims have been amended, canceled or added in this amendment. Therefore, claims 1, 3-7, 13-15, 17-18, 23-26 and 28-31 and 34-39 remain pending.

In the present Office Action, the only issue raised is a rejection of all pending claims as being indefinite under 35 U.S.C. § 112, second paragraph (all previous rejections have been overcome). The reason given by the Examiner is the following:

Claims 1, 3-7, 13-15, 17-18, 23-26 and 28-31 and 34-39 recite “if the back-off time period sent to the first downstream node [is] **not** expired, sending a second outgoing back-off message from the intermediary node to the second downstream node.” It is unclear what is accomplished when the back-off time period sent to the first downstream node **has** expired. Office Action, p. 3 (emphasis added).

Applicants respectfully traverse the rejection. 35 U.S.C. § 112, second paragraph, states, “The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention” (emphasis added). The purpose of a claim, therefore, is not to teach how the invention works, but rather, to set forth the boundaries of what the applicant considers to be the invention. The test for whether a claim meets the definiteness requirement is “whether one skilled in the art would understand the bounds of the claim when read in light of the specification,” not whether one would understand how the invention works from reading the claim. Personalized Media Communications v. Int’l. Trade Comm’n., 161 F.3d 696, 705, 48 U.S.P.Q.2D (BNA) 1880, 1888 (Fed. Cir. 1998)(emphasis added). As long as one of ordinary skill in the art would understand the scope of the subject matter in the claims, and if applicants have not otherwise indicated that they intend

the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph. Id.; MPEP 2173.04, citing In re Miller, 441 F.2d 689, 169 U.S.P.Q. 597 (CCPA 1971).

In view of the above, Applicants respectfully submit that a claim which has a limitation that includes a condition (i.e., an “if-then” style statement), as Applicants’ independent claims do, does not have to recite all possible conditions and what happens under each condition, to make clear what the applicants regard as their invention. Applicants respectfully submit that that is already quite clear from the claim language in its present form. Therefore, what (if anything) is accomplished when the back-off time period sent to the first downstream node has expired is simply not relevant under 35 U.S.C. § 112, second paragraph. Therefore, Applicants respectfully submit that the rejection is improper and request that it be withdrawn.


Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned at (408) 720-8300.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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